

52



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,450	03/09/2001	Joe Freeman Britt JR.	04676P008X	6840

7590 08/10/2005

Thomas C. Webster
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

PEREZ DAPLE, AARON C

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,450

Applicant(s)

BRITT, JOE FREEMAN

Examiner

Aaron C. Perez-Daple

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2154

DETAILED ACTION

1. This Action is in response to RCE filed 7/15/05, which has been fully considered.
2. Claims 1-30 are cancelled by Applicant.
3. Amended claims 31-54 are presented for examination.
4. This Action is non-Final.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 31-36, 39-44 and 47-52** are rejected under 35 U.S.C. 103(a) as being obvious over Perry et al. (US 6,160,489) (hereinafter Perry) in view of Uriya (US 6,574,489).
7. As for claims 31, 39 and 47, Perry discloses a method, article of manufacture and apparatus comprising:
 - receiving a transmission from a caller over a particular communications medium (col. 5, lines 53-60);
 - identifying said caller (col. 6, lines 3-6);
 - vibrating a device in a first predetermined manner if said particular communications medium is a telephony communications medium (col. 6, lines 16-23); and

vibrating the device in a second predetermined manner if said particular communications medium is not a telephony communications medium (col. 6, lines 16-23).

Although taught separately by Perry (col. 6, lines 3-5) and obvious to one of ordinary skill in the art, Perry does not *explicitly* teach simultaneously vibrating the device in a particular manner based on the caller's identity and based on the telephony communications medium. Uriya teaches simultaneously varying an alert based on both the caller's identity and the telephony communications medium for the purpose of providing call information to the user (col. 12, line 65 – col. 13, line 14). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Perry by simultaneously varying the vibration pattern based on both the caller's identity and the telephony communications medium in order to provide call information to the user, as taught by Uriya above.

8. As for claims 32, 40 and 48, Perry discloses the method, article of manufacture and apparatus of claims 31, 39 and 47, wherein said second predetermined manner is a second predetermined sequence of vibrations (col. 6, lines 16-23; Fig. 3).
9. As for claims 33, 41 and 49, Perry discloses the method, article of manufacture and apparatus of claims 32, 40 and 48, wherein said second predetermined sequence of vibrations further comprises vibrations of a different frequency than said first predetermined manner (Fig. 3; col. 5, lines 33-43).
10. As for claims 34, 42 and 50, Perry discloses the method, article of manufacture and apparatus of claims 31, 39 and 47, wherein said second predetermined manner

comprises said first predetermined manner followed by an additional vibration (vibrations 303 and 302, Fig. 3).

11. As for claims 35, 43 and 51, Perry discloses the method, article of manufacture and apparatus of claims 34, 42 and 50, wherein said second predetermined manner further comprises vibrations of a different frequency than said first predetermined manner (Fig. 3).
12. As for claims 36, 44 and 52, Perry discloses the method, article of manufacture and apparatus of claims 31, 39 and 47, wherein said second predetermined sequence of vibrations further comprises vibrations of a different frequency than said first predetermined manner (Fig. 3; col. 5, lines 33-43).
13. **Claims 37, 38, 45, 46, 53 and 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Uriya and in further view of Carey et al. (US 6,714,793 B1) (hereinafter Carey).

As for claims 37, 38, 45, 46, 53 and 54, Perry specifically anticipates providing different vibrations for different types communication signals and provides the specific examples of a telephone call and a fax (col. 5, lines 53-60; col. 6, lines 16-23). However, Perry and Uriya do not specifically disclose that the types of communication signals may comprise email and instant messages. Carey teaches receiving email and instant messages on a mobile device (cellular phone) (col. 5, lines 5-43). It would have been obvious to one of ordinary skill in the art to modify the teachings of Perry and Uriya by providing different vibration patterns for email and instant messages in order to distinguish the type of communication signal when

receiving email and instant messages on a cellular phone, as taught by Carey (col. 4, lines 5-43) and further motivated by Perry (col. 5, lines 53-60).

Response to Arguments

14. Applicant's arguments with respect to claims 31-54 have been considered but are moot in view of the new ground(s) of rejection.

Although not relied upon for the rejection, the Examiner considers that Perry alone is sufficient to render obvious simultaneously vibrating the device in a particular manner based on the caller's identity and based on the telephony communications medium. In particular, col. 6, lines 3-31, discuss a variety of methods for varying the alert pattern based on either user-selection or an indication from the radiotelephone system. It is further disclosed that these alerts may be varied based upon the type of communications method and the source of the contact (i.e. caller's identity). It would have been obvious to one of ordinary skill in the art at the time of the invention that these examples could be combined or modified to provide different levels of indications based on the particular system and user preferences.

Conclusion


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C. Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone

Art Unit: 2154

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/5/05

Aaron Perez-Daple



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100